

COBURN CROFT
ATTORNEYS AND COUNSELORS AT LAW

■ SUITE 2700
ONE MERCANTILE CENTER
SAINT LOUIS, MISSOURI 63101
314 621-8575
314 621-2989 FAX

■ 2400 NATIONSBANK CENTER
700 LOUISIANA
HOUSTON, TEXAS 77002
713 225-3800
713 225-3828 FAX
REPLY TO SAINT LOUIS OFFICE

■ SUITE 202
120 WEST MAIN STREET
BELLEVILLE, ILLINOIS 62220
618 277-1020
REPLY TO SAINT LOUIS OFFICE

Joseph G. Nassif
Ext. 325

May 19, 1995

EPA Region 5 Records Ctr.



Mr. Brian Havey
Assistant United States Attorney
Northern District of Illinois
U.S. Department of Justice
Dirksen Federal Building
219 South Dearborn Street, 12th Floor
Chicago, Illinois 60604

Via Fax 312-886-4073

Mr. Kurt N. Lindland
Assistant Regional Counsel
United States Environmental Protection
Agency
Region V
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Via Fax 312-886-0747

Re: United States v. Steven Cohen, et al.
No. 94 C 6801 (N.D. Ill.)
Response to Administrative Order, Disposition of
Copper Fines, Application for Exemption, Deed
Restriction Language, Cessation of Access Proceedings,
and Response to 104(e) Requests

Dear Brian & Kurt:

Response to Administrative Order

With respect to preparation of a site sampling plan, the meeting among the parties involving Steve Faryan and the new engineering consultant for the Cohens did take place, on Monday, as scheduled prior to Mr. Faryan's departure. Based on my conversation with the Cohens and principals for the engineering consultant who were in attendance at the meeting, a plan was worked out which is being finalized and will be available by the middle of next week. My understanding is that this plan meets with Mr. Faryan's expectations. The cost of the plan is substantial. Nevertheless, subject to my review and a final costing for the plan, my clients have given preliminary approval

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to proceed with the work. I will, of course, forward the plan to you immediately upon receipt. As stated above, I have contacted the consultant and he assures me that the plan will be ready by the middle of next week.

The above-referenced plan includes air emission monitoring. I remain puzzled by your concerns regarding operation of the shredder and the separator. These concerns are apparently not held by the on-site coordinator. My puzzlement is based on the fact that all of the air sampling done to date, which I have just recently reviewed, is below any level of concern. This was confirmed by Mr. Faryan in meetings with Ms. Tape and the Cohens.

With the improvements to the air collection systems on both the shredder and the sorting line, if anything, the already acceptable levels should be reduced. I note that most of the air emission findings were non-detect. We recognize that there are still some samples which have not yet been reported.

In light of the expense associated with the air monitoring, which will be better defined in the plan being prepared by the consultants, it may be unreasonable to expect any significant additional air monitoring. Nevertheless, my instructions from our clients are to go forward with the plan as agreed upon subject to final costing. My understanding is that the air monitoring will commence promptly upon conclusion of the work plan and submission to U.S. EPA. This will be clarified upon submission of the plan.

Disposition of Copper Fines

We have discussed disposition of the copper fines with the Cohens, who have discussed the same with Mr. Faryan. Let me clarify that we do not recognize that the remaining copper fines on the site contain levels of PCBs above 50 ppm. To our knowledge, there has been no sampling plan conducted of these fines by anyone which is statistically determinative of their PCB content. The results, although always under 500 ppm to the best of my knowledge, have been inconsistent to say the least. At least some of the results have been below 50 ppm.

The Cohens are attempting to make arrangements to ship this material. At this point, I cannot tell you whether the material is going inside or outside of the country. The most likely location is outside of the country. Once that is confirmed, we will provide you with additional information. The other option that the Cohens have is to run the fines through the sorting line

to remove the copper from the remaining inorganic residue, thereby separating the PCBs with the inorganic residue. The resulting waste inorganic residue would be disposed of based on the levels of PCBs in the residue. This approach has been suggested by Mr. Faryan and is technically and regulatorily acceptable. As a result of the above and in light of the fact that the fines have been removed from the areas to be cleaned, there will be no need for U.S. EPA to remove the fines as part of their cleanup. Since the fines are out of the way, their disposition, whether by shipment or reprocessing, may not take place until after EPA has demobilized.

At the present time, the Cohens are focusing their efforts on attempting to maintain their business in the absence of operation of their shredding and sorting lines and access to the major portion of their yard. In the event the fines are shipped prior to the demobilization, we will provide you with notice as I have previously stated.

Application for Exemption

Attached is a copy of the petition filed with the Regional Administrator on behalf of Chicago International pertaining to the movement of material to and from the site.

Deed Restriction Language

In the absence of any directions from either of you, we have prepared a draft of restriction language for your review. (See attached.) The Cohens have no disagreement with placing acceptable language on the existing deed. As you know, by agreeing to leave the concrete foundation in place, this essentially allowed the parties to work together to accomplish the cleanup and substantially reduce the cost. In the absence of that decision which was proposed by the Cohens, it is unlikely that we would have been able to accomplish this task short of resolution by the Court.

Cessation of Access Proceedings

Essentially, the Judge found there to be no need to grant U.S. EPA's request for access to the site for purposes of conducting site remediation. Chicago International did not contest EPA's request for sampling. We are aware of no cases in which a court found there to be no present dispute regarding access, but, nevertheless, imposed penalties.

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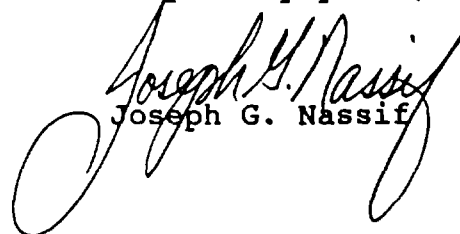
In addition, a major element in any penalty determination is the ability to pay. By cooperating in this cleanup, Chicago International has lost thousands of dollars and incurred very significant legal and engineering fees, a large portion of which are yet unpaid. It will incur additional fees in the future responding to EPA requests and orders.

We can either settle this matter for a very modest sum or get a reading from the Court on June 7th. By then, the cleanup should be completed, which could not have occurred in the absence of our clients' cooperation.

Response to 104(e) Requests

We will provide you with an up-date of our progress in responding to the various 104(e) requests as we get closer to the due date. If you should have any questions regarding the above, I will be in the office Monday through Thursday of next week and part of the day on Friday.

Very truly yours,


Joseph G. Nassif

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Enclosures